

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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FENDI ADELE S.R.L., FENDI S.R.L. and	:	Case No. 06 Civ. 0243 (JES)
FENDI NORTH AMERICA, INC.,	:	
	:	
Plaintiff,	:	DECLARATION OF
-against-	:	ANTONY S. CANNATELLA
	:	
ASHLEY REED TRADING, INC.	:	
SCOTT RESSLER and JAMES RESSLER.	:	
	:	
Defendants.	:	

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ANTHONY S. CANNATELLA declares under penalty of perjury that the following is true and correct:

1. I am a member of the firm of Pavia & Harcourt LLP, attorneys of record for Plaintiffs, Fendi Adele S.r.l., Fendi S.r.L, and Fendi North America, Inc., (collectively “Fendi” or “Plaintiffs”) in the present proceeding before the Court, *Fendi Adele S.r.l. , Fendi S.r.l. and Fendi North America, Inc. v. Ashley Reed Trading, Inc., Scott Ressler and James Ressler*, 06 Civ. 0243 (JES). I submit this Declaration in opposition to defendants Ashley Reed Trading, Inc.’s, Scott Ressler’s and James Ressler’s (hereinafter “Defendants”) motion to stay discovery against them in this action.
2. While the above captioned cases are consolidated for discovery purposes the Defendants’ present motion is solely related to the Civil Action No. 06 Civ. 0243.
3. Defendants’ motion is to stay the entire proceedings against three defendants, Ashley Reed Trading, Inc., Scott Ressler and James Ressler under

Civil Action No. 06 Civ. 0243 based on the fact that one of the defendants, James Ressler, has been indicted in Atlanta, Georgia. Neither Ashley Reed Trading, Inc. nor Scott Ressler has been indicted.

4. Fendi's claims set forth in the present action are as a result of defendants counterfeiting activities related to the purchase, sale and distribution of counterfeit Fendi goods.

5. The indictment in Atlanta, Georgia relates to James Ressler's acts, together with an individual named Giampaolo Falleni, involving the illegal importation, transportation, concealment and trafficking of counterfeit Prada merchandise.

6. The indictment does not involve Fendi trademarked goods nor does the government reference Fendi trademarked goods anywhere in the indictment.

7. Defendants' attempt to overlap claims made in the present action involving Fendi goods and those set forth in the Georgia indictment involving Prada merchandise by submitting an unsupported declaration of David Schoen, Esq., Mr. Ressler's criminal attorney in the Atlanta matter, wherein he claims that the government has made reference to Mr. Ressler's importation of counterfeit Fendi-branded handbags and claiming that the "Fendi-branded handbag shipments were 'inextricably intertwined' with the Prada handbags."

8. Mr. Schoen however, fails to identify who made said statement nor did defendants have the courtesy to supply this Court with a transcript of the “hearing” that occurred on August 21, 2006.

9. We have attempted to obtain a transcript of the alleged “hearing” and have pulled the docket sheet for the proceeding and note that the August 21, 2006 proceeding was a status conference and not a “hearing”. A copy of the docket sheet and Minutes of the Status Conference are attached hereto as Exhibit “A”.

10. We have been further advised by Deputy Clerk Coggins for the United States District Court for the Northern District of Georgia, that a court reporter was not present at this status conference, but there was a tape recording of the conference.

11. We are unable to acquire a transcript of the tape recording because, as Deputy Clerk Coggins has advised our firm, James Ressler requested that the tape be transcribed and filed under seal. We understand that Mr. Ressler’s request was made on Friday, August 25, 2006, the day after the present motion was filed.

12. Accordingly, we would only be able to acquire a copy of the transcript with Mr. Ressler’s consent.

13. Other than the unsubstantiated alleged assertion of an unknown individual, defendants have failed to provide this Court with any showing that the facts and circumstances that require disclosure in the present case involving

the Fendi trademarks, would in any way have any impact upon Mr. James Ressler's criminal case involving Prada goods.

WHEREFORE, Plaintiffs respectfully request that Defendants' motion to stay discovery be denied in its entirety, together with any other relief deemed just and proper by this Court.

Dated: New York, New York
August 30, 2006

Respectfully submitted,

Pavia & Harcourt LLP

By: 

Anthony S. Cannatella (AC 6423)

Attorneys for Plaintiffs
600 Madison Avenue
New York, New York 10022
(212) 980-3500

EXHIBIT A

MEDIUM

**U.S. District Court
Northern District of Georgia (Atlanta)
CRIMINAL DOCKET FOR CASE #: 1:06-cr-00103-TWT-LTW-1**

Case title: USA v. Ressler et al

Date Filed: 03/01/2006

Assigned to: Judge Thomas W. Thrash, Jr
Referred to: Judge Linda T. Walker

Defendant

James Ressler (1)

represented by **James Ressler**
PRO SE

Jeffrey Brickman
Needle & Rosenberg
999 Peachtree Street
Suite 1000
Atlanta, GA 30309
678-420-9300
Fax: 678-420-9301
Email: jbrickman@needlerosenberg.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

David I. Schoen
David I. Schoen, Attorney at Law
Suite 100-6
2800 Zelda Road
Montgomery, AL 36106
US
334-395-6611
Email: DSCHOEN593@AOL.COM
ATTORNEY TO BE NOTICED

Pending Counts

18:371 CONSPIRACY TO DEFRAUD THE
UNITED STATES
(1)

18:545 and 18:2 SMUGGLING GOODS
INTO THE U.S. (EXCEPT NARCOTICS
AND LIQUOR)
(2-10)

18:2320(a) and 18:2 TRAFFICKING IN
COUNTERFEIT GOODS/SERVICES (SUB

Disposition

OFFENSE)
(11-15)

Highest Offense Level (Opening)

Felony

Terminated Counts

None

Disposition

Highest Offense Level (Terminated)

None

Complaints

None

Disposition

Plaintiff

USA

represented by **Randy Scott Chartash**
Office of United States Attorney
Northern District of Georgia
75 Spring Street, S.W.
600 United States Courthouse
Atlanta, GA 30303
404-581-6000
Email: randy.chartash@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Richard M. Langway
Office of United States Attorney
Northern District of Georgia
75 Spring Street, S.W.
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404-581-6000
Email: richard.langway@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
03/01/2006	1	INDICTMENT as to James Ressler (1) counts 1, 2-10, 11-15; Giampaolo Falleni (2) counts 1, 2-10, 11-15. (se) (Entered: 03/02/2006)
03/01/2006	2	Defendant Information Sheet as to James Ressler. (se) (Entered: 03/02/2006)

03/01/2006	<u>4</u>	Praeipce filed. Arrest Warrant Issued as to James Ressler and delivered to USM on 3/2/06. (se) (Entered: 03/02/2006)
03/23/2006		Case Assigned to Judges Thomas W. Thrash, Jr and Linda T. Walker. (dr) (Entered: 03/28/2006)
03/24/2006	<u>6</u>	Request for Arraignment as to James Ressler. (se) (Entered: 03/27/2006)
03/27/2006	<u>7</u>	Summons Issued as to James Ressler: Arraignment set for 4/4/2006, 11:45 AM in Courtroom 1834 before Judge Gerrilyn G. Brill. (se) (Entered: 03/27/2006)
03/29/2006	<u>12</u>	NOTICE OF ATTORNEY APPEARANCE: Jeffrey Brickman appearing on behalf of James Ressler (Brickman, Jeffrey) (Entered: 03/29/2006)
03/29/2006	<u>15</u>	APPLICATION for Admission Pro Hac Vice by David I. Schoen for James Ressler. Filing Fee received \$150.00, Receipt #549268. (dr) (Entered: 04/03/2006)
04/04/2006	<u>18</u>	Minute Entry for proceedings held before Judge Gerrilyn G. Brill :INITIAL APPEARANCE as to James Ressler, Arraignment, PLEA of NOT GUILTY by James Ressler (1) Count 1,2-10,11-15, Estimated Trial Time-Medium (Tape #06-04@3680) (dr) (Entered: 04/06/2006)
04/04/2006	<u>19</u>	ORDER Setting Conditions of Release as to James Ressler. James Ressler (1) released on conditions only. Signed by Judge Gerrilyn G. Brill on 4/4/06. (dr) (Entered: 04/06/2006)
04/06/2006	<u>20</u>	ORDER Granting <u>15</u> Application for Admission Pro Hac Vice for David Schoen Signed by Judge Thomas W. Thrash Jr. on 4/5/06. (dr) (Entered: 04/07/2006)
04/10/2006	<u>21</u>	Rule 5(c)(3) Documents Received from Southern District of New York as to James Ressler (Attachments: # <u>1</u> Surety Bond)(dr) (Entered: 04/12/2006)
04/12/2006	<u>22</u>	PRETRIAL SCHEDULING ORDER as to James Ressler setting the Pretrial Conference for 4/21/2006 at 11:00 AM in Courtroom 1860 before Judge Linda T. Walker. Signed by Judge Linda T. Walker on 04/12/06. (slc) (Entered: 04/12/2006)
04/17/2006	<u>24</u>	NOTICE OF ATTORNEY APPEARANCE Richard M. Langway appearing for USA. (Langway, Richard) (Entered: 04/17/2006)
04/17/2006	<u>25</u>	Consent MOTION to Continue Pre-Trial Conference by James Ressler. (Attachments: # <u>1</u> Text of Proposed Order)(Brickman, Jeffrey) (Entered: 04/17/2006)
04/19/2006	<u>28</u>	ORDER granting <u>25</u> Motion for Continuance of of pre-trial conference as to James Ressler (1); Pretrial Conference reset for 5/9/2006 10:00 AM before Judge Linda T. Walker in Courtroom 1860. Signed by Judge Linda T. Walker on 4/19/06. (dr) Modified Courtroom on 4/21/2006 (dr). (Entered: 04/20/2006)
04/21/2006		*** Pret-Trial Conference reset before Judge Linda T. Walker in Courtroom 1860, and not Judge Thomas W. Thrash, Jr. as previously indicated. (dr) (Entered: 04/21/2006)
05/01/2006	<u>29</u>	NOTICE SETTING TRIAL as to James Ressler, Giampaolo Falleni, Jury Trial set for 6/5/2006 09:30 AM in Courtroom 2108 before Judge Thomas W. Thrash Jr.. (ss) (Entered: 05/01/2006)
05/04/2006	<u>30</u>	MOTION for Extension of Time Time for Filing Motions <i>and For Leave to File</i>

		<i>Motions Out of Time</i> by James Ressler. (Schoen, David) (Entered: 05/04/2006)
05/09/2006	<u>31</u>	Minute Entry for proceedings held before Judge Linda T. Walker :Pretrial Conference as to James Ressler; <u>30</u> MOTION for Extension of Time Time for Filing Motions <i>and For Leave to File Motions Out of Time</i> DEFERRED to District Judge for a ruling. (Tape #LTW06-17@1191)(dr) (Entered: 05/10/2006)
05/15/2006	<u>32</u>	ORDER granting <u>30</u> Motion for Extension of Time for filing motions until 7/6/06 as to James Ressler (1). Signed by Judge Thomas W. Thrash Jr. on 5/15/06. (dr) Modified text on 5/16/2006 (dr). (Entered: 05/16/2006)
05/17/2006	<u>34</u>	TRANSCRIPT of Proceedings as to James Ressler held on 5/9/06 before Judge Linda T. Walker. Court Reporter: Darla Coulter. (dr) (Entered: 05/18/2006)
05/23/2006		NOTICE as to James Ressler, Giampaolo Falleni re <u>32</u> Order on Motion for Extension of Time to File motions by defendant Ressler and continuing his trial to a later date, defendant Falleni's trial is also continued until further notice. (ss) (Entered: 05/23/2006)
07/07/2006	<u>36</u>	PROPOSED CONSENT ORDER for Extension of Time to File Motions as to James Ressler (Brickman, Jeffrey) (Entered: 07/07/2006)
07/10/2006	<u>37</u>	CONSENT ORDER as to James Ressler granting defendant's request for an extension of time; defendant's motions to be filed no later than close of business 7/13/06; Time excluded from 7/6/06 until 7/13/06. Signed by Judge Thomas W. Thrash Jr. on 7/10/06. (dr) (Entered: 07/11/2006)
07/13/2006	<u>39</u>	MOTION for Leave to Take Depositions with Brief In Support by James Ressler. (Schoen, David) Modified on 7/14/2006 (dr). (Entered: 07/13/2006)
07/13/2006	<u>40</u>	DOCUMENT FILED IN ERROR - MOTION for Discovery with Brief In Support by James Ressler. (Schoen, David) Modified on 7/14/2006 (dr). (Entered: 07/13/2006)
07/13/2006	<u>41</u>	MOTION for Leave to File reserve right to file additional motions by James Ressler. (Schoen, David) (Entered: 07/13/2006)
07/13/2006	<u>42</u>	MOTION for Disclosure of materials and information, MOTION for Discovery materials, MOTION for Bill of Particulars by James Ressler. (dr) (Entered: 07/14/2006)
07/14/2006		Notification of Docket Correction re <u>40</u> MOTION for Discovery which is FILED IN ERROR. For correct entry refer to <u>42</u> MOTION for Disclosure of materials and information MOTION for Discovery of materials MOTION for Bill of Particulars (dr) (Entered: 07/14/2006)
07/31/2006	<u>44</u>	ORDER as to James Ressler setting Status Conference for 8/21/2006 at 10:00 AM in Courtroom 1860, 16th floor United States Courthouse, 75 Spring Street, Atlanta, Georgia before Judge Linda T. Walker re <u>42</u> MOTION for Disclosure of materials and information MOTION for Discovery materials MOTION for Bill of Particulars filed by James Ressler, Signed by Judge Linda T. Walker on 7/31/2006. (cdg) (Entered: 08/01/2006)
08/03/2006	<u>45</u>	Notice for Leave of Absence for the following date(s): 9/6-14/2006, by Richard M. Langway. (Langway, Richard) (Entered: 08/03/2006)
08/17/2006	<u>49</u>	ORDER granting leave of absence for Richard Langway as to James Ressler; Time excluded from 9/6/06 until 9/14/06. Signed by Judge Thomas W. Thrash Jr. on 8/16/06.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
MAGISTRATE JUDGE'S CRIMINAL MINUTES

PRETRIAL PROCEEDINGS & MOTIONS
FILED IN OPEN COURT

DATE: August 21, 2006 @ 10:15 a.m.
TAPE: 06-32 @ 2555
TIME IN COURT: 1:25

MAGISTRATE: Linda T. Walker, PRESIDING

CASE NO. : 1:06-CR-103-TWT

DEPUTY CLERK: Sonya Lee-Coggins

DEFT: James Ressler
(X)Present ()Not Present

AUSA: Randy Chartash
(X)Present ()Not Present

DEFT ATTY: Jeff Brickman
David Schoen
(X)Present () Not Present
Type Cnsl: Retained CJA FDP
()First Appearance w/an Atty

INTERPRETER:

CONTINUANCES:

COURT REPORTER:

Pretrial Conference/Hearing reset to _____ at _____.
() by Court Order, or at the request of the () Govt. () Deft.

Pretrial Conference/Hearing cont'd. to _____ at _____.
() by Court Order, or at the request of the () Govt. () Deft.

Defendant's time for filing pretrial motions extended to _____.

Government's time for filing responses extended to _____.

Transcript ordered filed by _____.

() Pretrial Conference/Hearing **NOT** held.

(X) Status Conference HELD

() Evidentiary Hearing held

- | | <u>Motion Short Title</u> | <u>Ruling</u> |
|----|--|------------------------------|
| 1. | 39 MOTION for Leave to Take Depositions | (X) Gr () Dn () GI () Adv |
| | () Oral Motion. Written Motion: () filed w/clerk,
() to be filed w/clerk. | |
| | Other: | |
| | Term E excl int (Y/N); Cont E excl int (Y/N);
Begin G excl Int (Y/N)
Suppl brief due _____; Govt response due _____;
Clerk to submit on _____. | |
| 2. | 42 MOTION for Disclosure of Materials and Information, for Discovery Materials,
and for Bill of Particulars | () Gr () Dn (X) GI () Adv |
| | () Oral Motion. Written Motion: () filed w/clerk,
() to be filed w/clerk. | |
| | Other: The government shall inform the Defendant of the <i>Style #'s</i> of the handbag products
by 09/21/06. The Letters of Rogatory shall be filed on or before 09/21/06 as well. | |
| | Term E excl int (Y/N); Cont E excl int (Y/N);
Begin G excl Int (Y/N)
Suppl brief due _____; Govt response due _____;
Clerk to submit on _____. | |
| 3. | 41 MOTION for Leave to File reserve right to file additional motions | (X) Gr () Dn () GI () Adv |
| | () Oral Motion. Written Motion: () filed w/clerk,
() to be filed w/clerk. | |
| | Other: Defendant shall have thru 10/23/06 in which to file any additional motions. | |
| | Term E excl int (Y/N); Cont E excl int (Y/N);
Begin G excl Int (Y/N)
Suppl brief due _____; Govt response due _____;
Clerk to submit on _____. | |
| 4. | | () Gr () Dn () GI () Adv |
| | () Oral Motion. Written Motion: () filed w/clerk, | |